

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7309 of 2007

Dated:10.04.2007

-

Between:

Pasupuleti Vanama Raju

... Petitioner

AND

State of Andhra Pradesh and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7309 of 2007

ORDER:

The petitioner is the owner of House No.1-7 constructed in the land admeasuring Ac.0.04 cents in R.S.No.77 situated at Nouduru Village of Veeravasaram Mandal in West Godavari District. There has been a dispute between the petitioner and the fourth respondent. It is the case of the petitioner that the fourth respondent filed a suit, being O.S.No.303 of 1983, on the file of the Court of the I Additional Junior Civil Judge, Bhimavaram, seeking mandatory order against the petitioner to remove the house. The same was dismissed. The fourth respondent, however, succeeded in the appellate Court, as his appeal, being A.S.No.36 of 1989, was allowed by the Court of the Senior Civil Judge, Bhimavaram. Against the same, the petitioner preferred a Second Appeal, which is statedly pending before this Court. The petitioner now alleges that instead of filing Execution Petition, the fourth respondent has instigated respondents 2 and 3, who have come to his house and marked a portion of the house for demolition. Contending that the same is not proper due process of law, the petitioner filed the instant Writ Petition seeking a declaration and direction to respondents 1 to 3 not to demolish his house.

Admittedly the petitioner suffered the decree from the civil Court and already filed Second Appeal. If he apprehends that there is an improper execution of the decree obtained by the fourth respondent, his remedy is to obtain appropriate orders in the Second Appeal. Merely because the Second Appeal is pending at the admission stage, the petitioner cannot again invoke public law remedy. The allegation that at the behest of the fourth respondent, respondents 2 and 3 are making preparations to demolish a portion of the house is only made to bring the matter within the public law remedy. This Court has no manner of doubt that the fourth

respondent is entitled to execute the decree, which he obtained from the appellate Court, subject to orders of the Second Appeal.

The Writ Petition is misconceived, and is accordingly dismissed. No costs.

(V.V.S.RAO, J)

10.04.2007

vs